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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District: <i>Delaware</i>
Name (under which you were convicted): <i>Christian Dejuses</i>		Docket or Case No.:
Place of Confinement: <i>Delaware Correctional Center 1181 Paddock Road Smyma, Delaware 19977</i>		Prisoner No.: <i>501798</i>
Petitioner (include the name under which you were convicted) <i>Christian Dejuses</i>		Respondent (authorized person having custody of petitioner) <i>Thomas Cannoll, Warden</i>
The Attorney General of the State of <i>Delaware, Carl C. Danberg</i>		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

*Superior Court, New Castle County, 500 N. King Street,
Wilmington, Delaware 19801.*(b) Criminal docket or case number (if you know): *IN 03031089-95, and IN 03040614-15*

2. (a) Date of the judgment of conviction (if you know):
- May 14, 2004*

(b) Date of sentencing: *May 14, 2004*

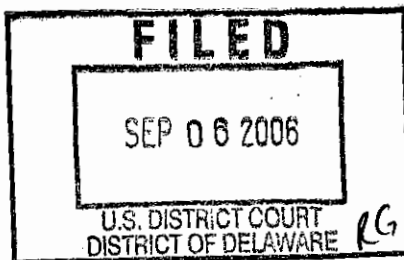
3. Length of sentence:
- 12 years*

4. In this case, were you convicted on more than one count or of more than one crime?
- ☒
- Yes
- ☐
- No

5. Identify all crimes of which you were convicted and sentenced in this case:
- (4) Counts of possession of a Firearm During the Commission of a Felony; (3) counts of Aggravated Menacing; (1) Count of First Degree Burglary, and Unlawful Imprisonment First Degree.*

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)
☐ (2) Guilty ☐ (4) Insanity plea



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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? *Not guilty to all charges*

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: *Supreme Court, State of Delaware*

(b) Docket or case number (if you know): *213, 2004*

(c) Result: *Affirmed Conviction of the Superior Court*

(d) Date of result (if you know): *N/A*

(e) Citation to the case (if you know): *N/A*

(f) Grounds raised: *Petitioner's Court appointed Counsel raised no grounds on direct appeal. Please see Counsel's brief under Supreme Court of Delaware Rules 26(c), attached hereto as exhibit - 6*

(g) Did you seek further review by a higher state court? ☐ Yes ☒ No

If yes, answer the following: *N/A*

(1) Name of court: *N/A*

(2) Docket or case number (if you know): *N/A*

(3) Result: *N/A*

(4) Date of result (if you know): *N/A*

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(5) Citation to the case (if you know): *N/A*(6) Grounds raised: *N/A*

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ NoIf yes, answer the following: *N/A*(1) Docket or case number (if you know): *N/A*(2) Result: *N/A*(3) Date of result (if you know): *N/A*(4) Citation to the case (if you know): *N/A*

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: *Superior Court, New Castle County*
 (2) Docket or case number (if you know): *ID# 0303004601*
 (3) Date of filing (if you know): *July 2005*
 (4) Nature of the proceeding: *Post-Conviction, did not commit crimes*
 (5) Grounds raised: *Police misconduct; prosecution misconduct; lack of jurisdiction by the trial court. Defective grand jury indictment; perjured testimony by state witness; Abuse of Discretion by Trial Judge, Ineffective Assistance of Counsel, And Violation of Equal Protection And Due process To The Constitution of The United States.*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: *Dismissed*(8) Date of result (if you know): *September 27, 2005*

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(b) If you filed any second petition, application, or motion, give the same information: *N/A*

- (1) Name of court: *N/A*
- (2) Docket or case number (if you know): *N/A*
- (3) Date of filing (if you know): *N/A*
- (4) Nature of the proceeding: *N/A*
- (5) Grounds raised: *N/A*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? *N/A*

☐ Yes ☐ No *N/A*

(7) Result: *N/A*

(8) Date of result (if you know): *N/A*

(c) If you filed any third petition, application, or motion, give the same information: *N/A*

- (1) Name of court: *N/A*
- (2) Docket or case number (if you know): *N/A*
- (3) Date of filing (if you know): *N/A*
- (4) Nature of the proceeding: *N/A*
- (5) Grounds raised: *N/A*

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No *N/A*(7) Result: *N/A*(8) Date of result (if you know): *N/A*

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No(2) Second petition: ☐ Yes ☐ No(3) Third petition: ☐ Yes ☐ No(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: *N/A*

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: *Ineffective Assistance of Counsel And Violation of Equal Protection And Due process as guaranteed by the Constitution of the United States. (U.S. Const. Amends. 5, 6, and 14)*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel was ineffective when he failed to file pre-trial motion to dismiss all charges, after victim wrote letter (certified) prior to trial, stating that she had made a mistake of identity. That the petitioner was not the individual who committed the crime against her person. Counsel declined and refused to file motion as requested by the petitioner. (Please see exhibit - F, pages 50 - 55)

(b) If you did not exhaust your state remedies on Ground One, explain why: *The petitioner did exhaust all available State Court remedies.*

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(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No(2) If you did not raise this issue in your direct appeal, explain why: *Petitioner's Court appointed Counsel declined and refused to raise issue on direct appeal as requested by petitioner.*

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *Post-Conviction*Name and location of the court where the motion or petition was filed: *Superior Court, New Castle County, 500 N. King Street, Wilmington, Delaware 19801.*Docket or case number (if you know): *ID# 0303004601*Date of the court's decision: *September 27, 2005*Result (attach a copy of the court's opinion or order, if available): *Dismissed (Please See attached exhibit-B).*

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: *Supreme Court of Delaware, 55 The Green, Dover, Delaware 19901.*Docket or case number (if you know): *499, 2006*Date of the court's decision: *May 30, 2006*Result (attach a copy of the court's opinion or order, if available): *Affirmed (Please See attached exhibit-E).*(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: *N/A*

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: *N/A*

GROUND TWO: *Ineffective Assistance of Counsel And Violation of Equal Protection And Due Process As guaranteed by the Constitution of The United States (U.S.C.A. Const. Amendments 5, 6 and 14)*
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel was ineffective when he failed to file Severance Motion to Dismiss against Goulder of offenses to indictment, after the petitioner had already been indicted and on bail for approximately (6) weeks. The petitioner was rearrested and charged with (2) additional offenses unrelated and separate from the initial crime.

(b) If you did not exhaust your state remedies on Ground Two, explain why: *The petitioner did exhaust all available State Court remedies.*

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: *Petitioner's Court appointed Counsel declined and refused to raise issue on direct appeal as requested by petitioner.*

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *Post-Conviction*

Name and location of the court where the motion or petition was filed: *Superior Court, New Castle County, 500 N. King Street, Wilmington, Delaware 19801*

Docket or case number (if you know): *ID# 0303004601*

Date of the court's decision: *September 27, 2005*

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Result (attach a copy of the court's opinion or order, if available): *Dismissed (Please See attached exhibit B)*

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: *Supreme Court of Delaware, 55 The Green, Dover Delaware 19901.*

Docket or case number (if you know): *499, 2006*

Date of the court's decision: *May 30, 2006*

Result (attach a copy of the court's opinion or order, if available): *Affirmed (Please See attached exhibit E).*

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: *N/A*

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two *N/A*

GROUND THREE: *Violation of Equal Protection And Due Process clauses as guaranteed by the Constitution of The United States. (U.S. C.A. Const. Amendments 5 and 14).*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

That the Superior Court was divested or lacked jurisdiction to try and convict the petitioner on joinder of (2) additional charges to indictment unrelated and apart from the initial crime.

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(b) If you did not exhaust your state remedies on Ground Three, explain why? *petitioner did exhaust all available State remedies.*

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: *petitioners Court appointed counsel declined and refused to raise issue on direct appeal*

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *Post-Conviction*

Name and location of the court where the motion or petition was filed: *Superior Court, New Castle County, 500 N. King Street, Wilmington, Delaware 19801.*

Docket or case number (if you know): *ID# 0303004601*

Date of the court's decision: *September 27, 2005*

Result (attach a copy of the court's opinion or order, if available): *Dismissed (Please See attached exhibit-B)*

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: *Supreme Court of Delaware, 55 The Green, Dover, Delaware 19901*

Docket or case number (if you know): *499, 2006*

Date of the court's decision: *May 30, 2006*

Result (attach a copy of the court's opinion or order, if available): *Affirmed (Please See attached exhibit-E)*

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: *N/A*

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: *N/A*

GROUND FOUR: *N/A*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): *N/A*

(b) If you did not exhaust your state remedies on Ground Four, explain why: *N/A*

(c) **Direct Appeal of Ground Four:** *N/A*

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: *N/A*

(d) **Post-Conviction Proceedings:** *N/A*

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state: *N/A*

Type of motion or petition: *N/A*

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Name and location of the court where the motion or petition was filed: *N/A*

Docket or case number (if you know): *N/A*

Date of the court's decision: *N/A*

Result (attach a copy of the court's opinion or order, if available): *N/A*

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state: *N/A*

Name and location of the court where the appeal was filed: *N/A*

Docket or case number (if you know): *N/A*

Date of the court's decision: *N/A*

Result (attach a copy of the court's opinion or order, if available): *N/A*

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: *N/A*

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: *N/A*

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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them: *N/A*

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. *N/A*

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised. *N/A*

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: *Ralph D. Wilkinson*

(b) At arraignment and plea: " "

(c) At trial: " "

(d) At sentencing: " "

(e) On appeal: " "

(f) In any post-conviction proceeding: *pro se*

(g) On appeal from any ruling against you in a post-conviction proceeding: *pro se*

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: *N/A*

(b) Give the date the other sentence was imposed: *N/A*

(c) Give the length of the other sentence: *N/A*

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

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"Petitioner Will Delay Filing Fee"

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: *Rule that petitioner's Constitutional rights have been violated. Issue an order to Warden, Thomas Carroll, Delaware Correctional Center, releasing the petitioner from the Department of Corrections.*
or any other relief to which petitioner may be entitled.

Cristian D. Jesus S.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 9-4-06 (month, date, year).

Executed (signed) on Monday (date). 9-4-06

Cristian D. Jesus S.

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

IN FORMA PAUPERIS DECLARATION

[insert appropriate court]
